

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 729

Heard at Montreal, Tuesday, November 13, 1979

Concerning

**CANADIAN PACIFIC EXPRESS LTD.**

and

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

**EX PARTE**

**DISPUTE:**

The dismissal of employee R. Bowen, Ottawa, Ontario, following investigation for alleged violation of Company Rule 9A.

**EMPLOYEE'S STATEMENT OF ISSUE:**

January 30th, 1979, employee R. Bowen, Vehicleman, Ottawa, Ontario, was charged under Rule 9A of the Company Rule Book, and further assessed ten demerits which resulted in his dismissal.

The Brotherhood contends the demerits were not warranted and requested the Company to expunge the demerits from his record, he be reinstated to the position he held at time of suspension and also he be reimbursed all monies lost while suspended.

The Company has declined the Union's request.

**FOR THE EMPLOYEE:**

**(SGD.) J. J. BOYCE**

**GENERAL CHAIRMAN**

There appeared on behalf of the Company:

D. R. Smith	– Director Labour Relations & Administration, Toronto
J. L. S. Brunnelle	– Regional Manager, Montreal
S. J. Samosinski	– Labour Relations Officer, CP Rail, Montreal
B. D. Neil	– Manager, Labour Relations, Toronto

And on behalf of the Brotherhood:

J. J. Boyce	– General Chairman, Toronto
J. Crabb	– Vice General Chairman, Toronto
F. W. McNeely	– General Secretary Treasurer, Toronto

## **AWARD OF THE ARBITRATOR**

Rule 9(a) of the Vehiclemen's Rules sets out that among the basic daily duties of the Vehicleman is to load and check traffic into the vehicle. On the day in question the grievor was subject to a spot check which revealed, according to the Company, some four instances of a failure to check the load properly. Two package express shipments were on the truck which were not recorded on the package express delivery receipt forms, and two ETA shipments were on the truck without waybills to cover.

The grievor maintained that the package express items had been "written up on other sheets" which he could not find at the time of checking. He maintained, as well, that there was only one shipment for which there was no waybill, and that that was due to inadvertent error.

Not every mistake constitutes an offence for which discipline may be imposed. The necessity of proper documentation for shipments received and delivered is, however, obvious. In the instant case there were a number of irregularities with respect to the load on the grievor's truck on the day in question. The explanation that the grievor offered on his supplementary statement that "maybe the carbon didn't work" is simply not sufficient in the circumstances. He had, in effect, no response to the matter of the missing waybill or waybills.

There was, in my view, occasion for the imposition of discipline in this case. The Union referred to the case of another employee, assessed five demerits for a similar offence. In that case, however, the only irregularity appears to have been that there was one shipment without a waybill to cover. In the instant case, there were several irregularities not sufficiently explained, and a more severe penalty would be justified. In any event there was ground for the imposition of some discipline, and in view of the grievor's record, the effect on his employment status would be the same regardless of the penalty assessed.

For the foregoing reasons, the grievance is dismissed.

**(signed) J. F. W. WEATHERILL**  
**ARBITRATOR**